

Burlington Planning Commission

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vacant, Youth Member*



Burlington Planning Commission Meeting Notes Tuesday, July 12, 2016 - 6:30-8:30 P.M. Conference Room 12, City Hall

Present: Y Bradley, B Baker, E Lee
Absent: A Montroll, H Roen, J Wallace-Brodeur
Staff: D White, M Tuttle, E Tillotson, E Blackwood

I. Agenda

There was no quorum of the Planning Commission. Therefore, the Commission held a public forum rather than a discussion of items on the agenda.

II. Public Forum

Frank von Turkovich: Regarding next week's public hearing on the rezoning of Fletcher Place, Commission should know he and neighboring property owner, N Reid applied to city change lot lines. Distributed map showing change to lot lines requested, which should resolve issues the Commission had in discussing this map change.

Sharon Bushor, City Councilor: Will there be a notification to adjacent owners regarding this new information?

D White: The public hearing for the zoning amendment is warned for next meeting. F von Turkovich's application has been submitted; other than posting of the "Z" Card, no notification to adjacent owners.

Suki Rubin: Trying to follow [DMUC] process, but concerned as a full time resident. Has done own due diligence since 2014, but with major proposals over the summer, and the lack of quorum, it makes it difficult for everyone. The project is happening in my back yard and have supported it, but it seems as if railroading is going on and now don't trust the process.

Y Bradley: Commissioners have jobs and vacations; sometimes conflicts come up. Commissioners who came were expecting a quorum.

B Baker: Struggling with one resignation and two preplanned vacations.

Eric Morrow: Excited about the model being built; is it on track to be delivered next week? Will it be displayed in a public space?

D White: Not a hard date for delivery, but on track and will be here in time for the City Council hearings.

Ibnar Avilix: Public comments need to be tied to decisions as they were in planBTV, tallies of comments to specific subjects. The amendment seems to be being pushed for economic reasons. Project needs more work before asking for the maximum. If parking not underground, need to see numbers. We're being asked to trust that project works without numbers, and the general public seems to outnumber persons who are for the project.

Y Bradley: In a normal zoning amendment process there are hearings, input, and an amendment is delivered to City Council. In this case, City Council moved a request for an amendment forward to the PC; asked for

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language so that the Council could move the process to next step. As a result, the PC will provide comments individually, not as a Commission recommendation. This was a very unusual request from City Council. The Commission does not always agree on decisions, but comes to compromise and understanding; these are issues the Commission will need to repair in its working process going forward.

B Baker: Every time the City Council has asked the Commission for something, we provide it. Commission is advisory to the City Council, and takes it very seriously. The City Council has the tough job.

S Rubin: What is the difference between zoning language from the Commissioners for City Council, and the language of the public discussion?

Y Bradley: Some Commissioners will provide their own opinions to the City Council. There is perceived conflict around my position, so will not opine. The Commission was not asked to provide their opinion, but rather, the amendment text. .

Caryn Long: Thought the PC worked together in recent meetings and would present recommendations as a Commission for zoning changes. Wouldn't Commission normally do that together? Concerned about the original proposal, letter from staff. Thought tonight the PC would put together the last details. Why is this different from the usual process?

Y Bradley: Because it comes from the City Council.

E Lee: Council gave the PC parameters and said this is the timeline.

B Baker: At beginning of process there was funding that supported independent advisors and a Committee with two City Councilors and two Planning Commissioners were tasked to evaluate this determining what are the trade-offs. Looked at whether the things the City gets are worth the detriments? That's the debate.

Steve Goodkind: State statute discusses where an amendment can originate. If voters endorse and it gets passed on, it moves forward as if an individual presented it.

D White: City Council has the same authority to ask the PC to consider amendments. When amendments are sent by Council, they can limit PC role to making corrections to incorporate state statutes, local ordinances.

Robert Herdeen: PC doesn't appear to have much power and ok with it, but freaking me out.

E Lee: Some Commissioners have had a lot of criticism; there has been a lot of debate, and sending City Council comments. The PC has a powerful voice in process.

B Baker: Technically, the Commission could stop now; they have fulfilled their charge by sending the ordinance. But want to send comments.

E Lee: PC could have used our positions to kill project. Have been asked to present language to the City Council; PC could have chosen not to send language forward.

D White: According to statute, PC has to have a public hearing and that is it.

Richard Hilliard: From the start, has been interested in due diligence, he hasn't seen it from the City Council president. Did research and found information that D Sinex was CEO of a tech company in Holland, which filed for bankruptcy in 2015. Ought to be some sort of forensic investigation as to economic stewardship. Don't think the public knows this, but the Mayor must know about this since he has done due diligence.

B Baker: The Commission's role is not economic analysis. That is a critical piece that has to be evaluated at some point, not a Planning Commission charge.

D White: Only the zoning portion is for the Commission.

R Hilliard; There is a lot going on, seems appropriate to ask the City Councilors and the City Attorney.

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S Bushor: Key question when considering the PDA was, whether the vote was going to bind the hand of the Planning Commission. Concerned about autonomy in the zoning amendment process. Don't see this as spot zoning even if public does. As a community we want to allow some growth and change in downtown. As a Councilor, value PC's expertise; bring forward what seems to be right for city. Commission is immersed in planBTV, the City Council and the public are not as much. Council needs the comments to give the public as much information as possible, and understand all positions on this issue.

E Lee: Three of us have drafted comments which are in the minutes.

D White: Next week we should have the draft that was started which incorporated some Commissioners comments; edits will contain comments of other Commissioners.

M Tuttle: Public hearings for the statute of limitations and Fletcher Place are on the agenda for next week.

Y Bradley: Suggest sending comments by email.

E Blackwood: Comments can be sent to David, but no back and forth communication is permissible on email.

D White: Will provide to the City Council the full range of comments from the Commission.

B Baker: Council would like to see vote from the Commission including positives and negatives with comments.

Y Bradley: Must keep in mind that it is not the project, but the proposed overlay, which is the subject. Conversation will continue into the next meeting.

E Morrow: At the public meeting preceding the PDA, remembers that the height was not decided and there would be a process involving community to determine height.

Y Bradley: PDA evolved until the time of signing.

B Baker: The City Council makes their own decision, but takes our input, we should be weighing in.

D White: Question becomes how much time the Commission spends trying to come to consensus when Council has already provided input on what should be in it.

E Lee: Can we postpone the public hearings coming up?

Y Bradley: Perhaps keep them, but let people know they will be limited and continued at another meeting.

E Blackwood: Can cancel, or keep it and continue.

D White: It appears it might be best to cancel the public hearing and reschedule it.

Karen Paul, City Councilor: Early on in process, received a legal opinion that this was not spot zoning. Council sending PC ordinances is not unusual; perhaps more controversial, but not unusual. Upsetting at the City Council meeting last night, and at several Planning Commission meetings, that upset community members have singled people out and criticized them. People are doing this as volunteers, devoted their life's work to planning City's future. Wouldn't have planBTV without D White. This is not the way we should treat each other—we don't treat people that way, it is not right to treat us that way. David does a great job, lucky to have him. City Council appointed you because we want your comments, insight, talent, expertise, experience. The City Council could have chosen to keep with the ordinance committee until absolute last minute under PDA. Chose to bring it back to City Council for discussion, because this is the most open way we can do it. Glad that motion passed last night, glad public is involved, and hope it will be respectful.

R Hilliard: Naïve if we didn't think that there was a project driving this initiative. Take S Bushor's point that the public is the Trojan horse for all battlements to follow, sets precedent. Very difficult for public to separate the zoning and the project.

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B Baker: Typically get amendments and don't have a good idea what we're looking at. Since there is a project, more tangible, easier to debate.

B Dunkiel; Has spent a lot of time with all versions of materials for public comments, thinking about what would be most valuable for Council. The real weight of PC thoughts is through consensus, but sometimes can't do that. Five issues for consensus: height, exact boundaries, official map alignment of streets, FBC design standards including by-right concept, green buildings. Amount of inclusionary housing not a PC issue.

R Herendeen; still reacting to issue of PC autonomy. Does the Commission believe it is within their purview to just say no to a zoning amendment?

E Lee: The Commission could have responded saying it does not conform to planBTV.

S Bushor: Doesn't believe the Commission could just say "no." Council asked for an ordinance.

E Blackwood: The PC job is not to approve an amendment, PC is to review and submit comments. They could say that they don't endorse.

B Herendeen: In environmental situations, sometimes it is possible to say "no action."

Y Bradley: All agree that something needs to be done.

D White: The Commission could have voted unanimously to send it back to the City Council with the recommendation not to endorse it.

C Long: City going to be challenged by a developer with spot zoning claim. Are we opening up a can of worms? Did the PC write the letter that warned the meeting? E Blackwood works for Miro, D White works for Miro. Council has a signed agreement that created huge pressure. Would like to know if there is hired expert staff? Saw a report from staff that it's not possible to connect Pine Street. Is it worth doing this when street, sidewalks, schools are in disrepair?

B Baker: The Planning Commission appoints its own director. D White does not work for Mayor.

E Lee: Got the letter Friday before the meeting, at first was a little outraged thought opinions were being misrepresented. E Blackwood explained process that every other zoning amendment has been done that way. Could have delayed until we rewrote the letter, but did not have a problem with the way it was written, and delaying a hearing and rewriting the letter wouldn't have given new information or changed opinion. Should let the letter issue die.

M Tuttle: There was a draft letter in the packet of comments that Commission decided to send as a supplement to the amendment. This is not required by statute. What is required by statute, is a PC report regarding a bylaw change. It is a long-standing practice that staff prepares this report and sends it to all adjacent communities when a hearing is warned, and PC reviews it after their hearing. This has been the same process for every amendment the PC moves forward.

Y Bradley: The cost of constructing streets is not what the PC does.

D White: The report C Long mentions was regarding a proposed design that is more than a year old, when a road underground was proposed. The proposal for connecting Pine Street has changed. However, it is not the PC responsibility for those kinds of details.

B Baker: One of the things PC can do is say "if you want this" then do "this." Traffic experts will debate those issues. The Design Advisory Board, Design Review Board, Conservation Board takes our rules and interprets them and decides if they've been met.

Y Bradley: DPW will weigh in, too.

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S Rubin: If this isn't the forum to ask questions, do we have to go to all of the different boards? Developer at Westlake didn't do affordable housing because couldn't do it because of cost. How does that happen? If we're barking up the wrong tree, then who do we go to?

B Baker: The ordinance describes when there is relief from requirements; ordinances are different now. PC job is to see there aren't unintended consequences.

I Avilix: Confused about going by-right to 165 feet.

Y Bradley: It is 160 feet.

I Avilix: So are we dropping the bonuses? If so, then a change to inclusionary units is part of the discussion.

D White: Inclusionary housing applies to the whole city. Bonuses say that for every 5% more units than required, get additional height. Only recommending eliminating bonus, no change to the requirements.

I Avilix: So we're losing units we could get through the bonuses.

D White: Saying losing assumes that it is practical and economical to build more than required. If we don't get housing development, we don't get inclusionary units.

S Goodkind: But the bonuses will still apply in the rest of the City.

M Tuttle: It is required city-wide, but is only a bonus downtown.

I Avilix: It is good to have more clarity around that.

III. Report of the Chair

No report.

IV. Report of the Director

No report.

V. Proposed CDO Amendment – Downtown Mixed Use Core Overlay

VI. Committee Reports

No reports.

VII. Commissioner Items

No Commissioner Items

VIII. Minutes and Communications

No action was taken to approve minutes and communications.

IX. Adjourn

The chair called the meeting at 8:21 pm.

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Yves Bradley, Chair

DATE: 08.15.2016



Elsie Tillotson, Recording Secretary